HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10505 of 2006

Dated:25.09.2006

Between:

Masjid Akbari Managing Committee.

…Petitioner

and

The Andhra Pradesh State Wakf Board, and others.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10505 of 2006

ORDER:

Masjid Akbari Managing Committee, Borabanda, filed the instant Writ Petition assailing the proceedings of the first respondent dated 11.05.2006, whereby and where under, respondents 2 to 5 herein were appointed as additional four members of the Managing Committee of the Masjid Akbari, Borabanda, as illegal, and seeks a writ of certiorari to quash the same.

The fact of the matter, which is not seriously disputed, is that the first respondent by proceedings dated 21.04.2006 appointed Sri Mohd.Nazeer Ahmed Khan, the President of the petitioner-Committee and six others as members of the Committee of the Wakf for a period of three years up to 30.06.2009. The Committee was appointed under Section 18 of the Wakf Act, 1995 (for short 'the Act'). It appears the Inspector Auditor, Wakfs Circle Nos.5 & 7, sent proposals on 04.05.2006 to include four more names as members of the Managing Committee. Accepting the same, the Special Officer of the first respondent appointed respondents 2 to 5 as members of the Managing Committee.

Learned Counsel for the petitioner submits that under the byelaws for managing the affairs of Mosque framed by the A.P.Wakf

Board under the Act, if it is a Mosque, only seven members should be appointed, and if it is a Jamia Mosque, eleven members can be appointed. According to the learned Counsel, Masjid-e-Akbari, Borabanda, is not a Jamia Mosque, and therefore, appointment of four more persons as members is illegal. Secondly, he would submit that when once the Wakf Board exercises its power under Section 18 of the Act and appoints a Managing Committee with seven members, in the absence of any power to review its earlier order, the Board is not competent to issue the impugned order. Learned Counsel, however, does not dispute that against the present impugned order, the petitioner has a remedy under Section 83(2) of the Act to approach the A.P.State Wakf Tribunal.

The allegation that Masjid-e-Akbari is not a Jamia Mosque is vehemently disputed and denied by the learned Standing Counsel for the first respondent and the learned Counsel for respondents 2 to 5. The question whether a Mosque is Jamia Mosque or not is the question essentially in the realm of fact. This requires enquiry by the duly constituted Tribunal subject to production of evidence. Therefore, this Court is not inclined to go into this question as well as other questions raised at this stage, especially, when respondents 2 to 5 have already been appointed as members.

Therefore, this Writ Petition is disposed of giving liberty to the petitioner to approach the A.P.State Wakf Tribunal and file an application under Section 83(2) of the Act within a period of two weeks from the date of receipt of a copy of this order. As and when such application is filed, the learned Tribunal shall entertain the same and pass appropriate orders within a period of six weeks thereafter, after giving opportunity to the petitioner-Committee, its members, as well as the respondents herein. This order also does not preclude the first respondent to reconsider its order, if any application is submitted by the petitioner. No costs.

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(V.V.S.RAO, J)

25.09.2006
vs